

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA)
)
)
) 2: 12-cr-00183
v.) 2: 14-cv- 1722
)
ANTOINE CORTEZ DUTRIEVILLE)

MEMORANDUM ORDER

On May 8, 2015, the Court issued a Memorandum Opinion and Order which denied a MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN FEDERAL CUSTODY (ECF No. 56), filed by Antoine Cortez-Dutrieville.¹ The Court noted that Dutrieville had filed a brief in support of his motion; that the government had filed a response in opposition (ECF No. 64); and that the motion was ripe for disposition.

The § 2255 petition was filed by Dutrieville on December 22, 2014. At the request of the government, the Court issued a notice pursuant to *United States v. Miller*, 197 F.3d 644 (3d Cir. 1999), which gave Dutrieville the option to file an all-inclusive § 2255 petition. The Court explained that if Dutrieville did not elect a different option by March 2, 2015, it would rule on the petition as originally filed. Dutrieville did not file anything.

The government filed its response on April 9, 2015. Pursuant to the Practices and Procedures of this member of the Court, reply briefs are “not encouraged.” As of May 8, the date of the Court’s Memorandum Opinion, Dutrieville had not filed a reply brief.

On May 28, 2015, the Court received a document from Dutrieville captioned DEFENDANTS RESPONSE TO GOVERNMENTS RESPONSE TO MOTION UNDER 28 USC 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY PERSON IN

¹ Also pending is Dutrieville’s motion to reduce sentence (ECF No. 62), which will be addressed in a separate Order.

FEDERAL CUSTODY (ECF No. 66). The document purports to have been served by Dutrieville on April 21, 2015. The envelope is date-stamped in Baltimore, Maryland on May 12, 2015. Dutrieville states that the document is intended to be a reply brief.

Pursuant to Local Civil Rule 2255(E): “Although not required, the movant may file a Reply within 30 days of the date the United States Attorney files its Answer or other form of response.” In an abundance of caution, the Court will accept Dutrieville’s reply brief as timely filed. The Court has analyzed the arguments made by Dutrieville therein regarding the validity of his waiver of his right to file a collateral attack and the alleged ineffectiveness of his attorney. Those arguments were fully addressed in the Court’s Memorandum Opinion and Order of May 8, 2015. The Court adheres to the analysis set forth in that Memorandum Opinion.

As the Court held, the MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN FEDERAL CUSTODY (Document No. 56) is **DENIED**. Civil Action No. 14-1722 is closed. No certificate of appealability shall issue.

SO ORDERED this 1st day of June, 2015.

BY THE COURT;

s/ Terrence F. McVerry
United States District Judge

cc:

Katherine A. King, AUSA

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